

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES P. SCANLAN, on behalf of himself
and all others similarly situated,

Plaintiff,

-vs.-

AMERICAN AIRLINES GROUP INC., and
AMERICAN AIRLINES, INC.,

Defendants.

Civil Action No. 2:18-cv-04040-HB

PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff submits the decision attached here as **Exhibit A**, *Huntsman v. Sw. Airlines Co.*, No. 19-CV-00083-PJH, 2021 WL 391300 (N.D. Cal. Feb. 3, 2021), as supplemental authority in support of Plaintiff’s Motion for Class Certification (ECF No. 82).¹

Like this case, *Huntsman* includes class claims under 38 U.S.C. § 4316 for an airline’s failure to pay employees who take short-term military leave, despite paying employees who take other, comparable forms of leave. *Huntsman*, 2021 WL 391300 at *1. And, like Defendants here, Southwest Airlines argued in *Huntsman* that differences in the scheduling systems and in the benefits provided under different collective bargaining agreements would defeat commonality for any proposed class spanning multiple work groups. *Compare* ECF No. 98 at 22-24 with *Huntsman* at *5-7. The *Huntsman* court rejected this argument and held the plaintiff’s claims raised two common questions also raised in this case: “whether paid leave is a ‘right and benefit’

¹ This decision was not available on June 25, 2020, when final briefing on Plaintiff’s Motion for Class Certification closed. ECF No. 101; *see Atkins v. Capri Training Ctr., Inc.*, No. 13-6820, 2014 WL 4930906, at *10 (D.N.J. Oct. 1, 2014) (if “pertinent and significant authorities come to a party’s attention after the party’s brief has been filed, the party may advise the court of the relevant authority through a Notice of Supplemental Authority.”)

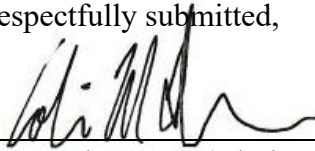
that must be provided equally under USERRA § 4316(b)” and “whether short-term military leave is comparable to” other forms of leave for which the defendant provides pay. *Id.* at *4, *8; *compare* ECF No. 82-1 at 7.

On March 10, 2021, the Ninth Circuit Court of Appeals denied Southwest Airline’s Petition for Permission to Appeal this decision under Fed. R. Civ. P. 23(f). *See Exhibit B.*

Plaintiff submits that the analysis of the district court in *Huntsman* should guide this Court’s consideration of the issue of whether a class spanning multiple work groups may be certified in this case.

Dated: March 24, 2021.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Colin M. Downes, hereby certify that on March 24, 2021, I electronically filed the foregoing Plaintiff's Notice of Supplemental Authority using the CM/ECF system, which sent notification of such filing to all counsel of record in this case.

A handwritten signature in black ink, appearing to read 'Colin M. Downes', written over a horizontal line.

Colin M. Downes